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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

11 MICHAEL STEVEN NOVAK,

12 Plaintiff,

13 v.

14 JAMES THATCHER,

15 Defendant.
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Case No. C08-5711BHS/JKA

ORDER DENYING
PLAINTIFF'S MOTION
FOR APPOINTMENT OF
COUNSEL

17 This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28
18 U.S.C. § 636(b)(1)(B). Before the court is plaintiff's second motion for appointment of counsel (Dkt. #
19 15). The defendant has responded and opposes the motion (Dkt # 17). Plaintiff's first motion for
20 appointment of counsel was denied. (Dkt. # 9). Plaintiff objected to that order, and the District Court
21 Judge to whom this case is assigned overruled the objection (Dkt # 21, and 22).

22 There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.
23 Although the court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party, the court may
24 do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986);
25 Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir.
26 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on
27 the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal
28 issues involved. Wilborn, 789 F.2d at 1331.

1 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. See, Complaint (Dkt #
2 1). Accordingly, Plaintiff's second Motion to Appoint Counsel (Dkt. # 15) is **DENIED**. Further, plaintiff
3 is warned that repetitive motions may result in sanctions including monetary sanctions or dismissal of
4 actions.

5 The Clerk is directed to send a copy of this Order to plaintiff.

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7 DATED this 17 day of February, 2009.
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10 /s/ J. Kelley Arnold
11 J. Kelley Arnold
12 United States Magistrate Judge
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